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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/011,434	04/04/2011	7,249,372	ESP.1487	6626

22885	7590	08/18/2011

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DES MOINES, IA   50309-2721

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED: 08/18/2011

Please find below and/or attached an Office communication concerning this application or proceeding.

)

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CENTRAL REEXAMINATION UNIT

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. *90/011,434*.

PATENT NO. *7,249,372*.

ART UNIT *3992*.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

PTOL-465 (Rev.07-04)

Office Action in Ex Parte Reexamination	Control No. 90/011,434	Patent Under Reexamination 7,249,372
	Examiner JOSHUA CAMPBELL	Art Unit 3992

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

a ☐ Responsive to the communication(s) filed on _____ .   b ☐ This action is made FINAL.
c ☒ A statement under 37 CFR 1.530 has not been received from the patent owner.

A shortened statutory period for response to this action is set to expire <u>2</u> month(s) from the mailing date of this letter.
Failure to respond within the period for response will result in termination of the proceeding and issuance of an *ex parte* reexamination certificate in accordance with this action. 37 CFR 1.550(d). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**
If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.

Part I   THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☒ Notice of References Cited by Examiner, PTO-892.   3. ☐ Interview Summary, PTO-474.

2. ☐ Information Disclosure Statement, PTO/SB/08.   4. ☐ _____ .

Part II   SUMMARY OF ACTION

1a. ☒ Claims *1-11* are subject to reexamination.

1b. ☐ Claims ____ are not subject to reexamination.

2. ☐ Claims ____ hav   e been canceled in the present reexamination proceeding.

3. ☐ Claims ____ are patentable and/or confirmed.

4. ☒ Claims *1-11* are rejected.

5. ☐ Claims ____ are objected to.

6. ☐ The drawings, filed on ____ are acceptable.

7. ☐ The proposed drawing correction, filed on ____ has been (7a) ☐ approved (7b)☐ disapproved.

8. ☐ Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).

      a)☐ All b)☐ Some* c)☐ None   of the certified copies have

      1☐ been received.

      2☐ not been received.

      3☐ been filed in Application No. _____ .

      4☐ been filed in reexamination Control No. _____ .

      5☐ been received by the International Bureau in PCT application No. _____ .

     * See the attached detailed Office action for a list of the certified copies not received.

9. ☐ Since the proceeding appears to be in condition for issuance of an *ex parte* reexamination certificate except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte* Quayle, 1935 C.D. 11, 453 O.G. 213.

10. ☐ Other: _____

cc: Requester (if third party requester)
U.S. Patent and Trademark Office
PTOL-466 (Rev. 08-06)   Office Action in Ex Parte Reexamination   Part of Paper No. 20110811

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DETAILED ACTION

1)   This Office action addresses claims 1-11 of United States Patent Number 7,249,372

(Bonnstetter), for which it has been determined in the Order Granting Ex Parte Reexamination

(hereafter the "Order") mailed 4/25/2011 that a substantial new question of patentability was

raised in the Request for *Ex Parte* reexamination filed on 4/4/2011 (hereafter the "Request").

Rejections

2)   The following four rejections are utilized by the examiner below, referencing the

proposed prior art listed on page ii of the Request:

      Issue 1:   Claims 6-10 in view of Lacy '109 and Teknekron

      Issue 2:   Claims 1 and 11 in view of Lacy '109, Teknekron, and Lacy '570

      Issue 3:   Claims 1-11 in view of Sonnenfeld

3)   The rejections below are confined to what has been deemed to be the best available art

from the Request. However, prior to conclusion of this reexamination proceeding, claims must

be patentable over all prior art cited in the order granting reexamination in order to be considered

patentable or confirmed on the reexamination certificate. The references cited in the Request

and/or Notice of References Cited (PTO-892) but not utilized in the current office action appear

to be largely cumulative to the teachings in the references applied below.

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Claim Rejection Paragraphs

4)   ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
patent by another filed in the United States before the invention by the applicant for patent, except that an
international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
subsection of an application filed in the United States only if the international application designated the United
States and was published under Article 21(2) of such treaty in the English language.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
such that the subject matter as a whole would have been obvious at the time the invention was made to a person
having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
manner in which the invention was made.

Issue 1

5)   Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable by Lacy '109 in

view of Teknekron (See claim mapping in Request pages 26-29, incorporated by reference).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to have combined the teachings of Lacy '109 with the teachings of Teknokron. A

motivation to combine the two references would be because it would have allowed users to take

advantage of the Internet or other network enabling them to remotely access the system (page 12,

lines 9-12 of Teknekron).

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Issue 2

6)   Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable by Lacy '109

in view of Teknekron, further in view of Lacy '570.

Regarding independent claim 1, Lacy '109 discloses a method for managing

distribution of assessment documents over a wide area comprising:

(a) providing an assessment instrument for completion by respondents;

> *"Storage device 104 stores a set of data signals defining a Comprehensive Skill Set (CSS)*
>
> *shown in Block 108. This CSS defines a comprehensive list of all skills that are to be used*
>
> *for analysis purposes by the users of a system."* (Col. 6, lines 47-51 of Lacy '109)

> *"The CSS includes all skills defined for use by all users in performing skill set*
>
> *evaluations. Thus, for a medium or large-size entity such as a large corporation, the CSS*
>
> *includes skills associated with a wide array of activities that cover everything from*
>
> *marketing, business planning initiatives, product development, manufacturing and*
>
> *support, and the like."* (Col. 9, lines 37-43 of Lacy '109)

(b) assigning a password for an entity having a level of rights;

> *"FIG. 8 shows a menu provided by Software Means 300 upon invocation of the skill set*
>
> *analysis tool of the current invention. The user may be required to supply a user*
>
> *identifier and a password when invoking the tool."* (Col. 11, lines 6-9 of Lacy '109)

(c) initializing permissions relative to the password based on the level of rights for the entity,

said permissions including at least one respondent password having permissions based on the

level of rights for a respondent;

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> *"The foregoing objects and other objects and advantages are provided in the current*
>
> *invention, which is an improved skill set assessment system and method for allowing a*
>
> *user to complete the skill set assessment process by reviewing only the subset of skills*
>
> *relevant to the user's employment position."* (Col. 3, lines 48-52 of Lacy '109)

> *"Access to these reports are controlled using user identifications and associated*
>
> *passwords. Another function provided by the invention of the preferred embodiment is the*
>
> *"Admin" function 824 of FIG. 8. Selection of this function provides the user with access*
>
> *to additional report generation features that are described in detail in the co-pending*
>
> *application entitled "System and Method for Evaluating a Selectable Group of People*
>
> *Against a Selectable Set of Skills" referenced above and incorporated herein by reference*
>
> *in its entirety, (hereinafter, Co-Pending Application). Access to this function is password*
>
> *controlled, and provides the user with access to the management functions that allow for*
>
> *the creation and deletion of the Skill Sets that may be mapped to nodes in a defined EHS*
>
> *as discussed in reference to FIG. 19."* (Col. 17, lines 20-35 of Lacy '109)

(e) providing an assessment instrument to the respondent which gauges an individual potential

employee's suitability with regards to a particular job, an individual existing employee's

suitability or performance with regards to a particular job, or an individual boss's performance

with regards to a particular job;

> *"FIG. 3 is a block diagram of the current invention. Software Means 300 has access to a*
>
> *set of Minimum Skill Set Definitions (MSSDs) shown in Block 302. These MSSDs are*
>
> *selectable for any given user, and may be used as a filter such that during the evaluation*

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> *process, a user need only review those skills shown as Mandatory Skills in Block 304 that*
>
> *are actually relevant to his employment expectations. That is, the Mandatory Skills are*
>
> *the skills that must be assessed for the analysis of the selected MSSD to be considered*
>
> *complete. All other skills in the CSS are considered Optional Skills, as shown in Block*
>
> *308. The assessment process may, but need not, be completed for these Optional Skills.*
>
> *The MSSDs are defined using the Minimum Skill Set Definition Means 310 of Software*
>
> *Means 300. According to the current invention, the MSSDs are defined using the*
>
> *hierarchical structure of an entity employing the assessment tool. For example, an MSSD*
>
> *may be defined through a process that takes into account the hierarchical corporate*
>
> *structure of a corporation that is using the assessment tool."* (Col. 7, lines 30-49 of Lacy
>
> '109, see also Fig. 8)

(f) receiving responses from the respondent to the assessment instrument;

> *"After an employee review has been completed to evaluate the skill assessment data, the*
>
> *data may be uploaded to the Skills Database 114."* (Col. 16, lines 42- 44 of Lacy '109)

(g) processing the responses into an assessment report;

> *"FIG. 18 is an illustration of a screen provided after selection of the "Report" function*
>
> *822. The screen includes a detailed account of assessment data entered for a particular*
>
> *employee..."* (Col. 16, line 62 - Col. 17, line 15 of Lacy '109)

Lacy '109 does not explicitly disclose (d) allowing the entity access to a web site on a

global computer network and enabling the initialized permissions for the entity. However

Teknekron discloses allowing the entity access to a web site on a global computer network and

enabling the initialized permissions for the entity.

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> *"Users can take advantage of the Internet or other network to remotely access the*
>
> *performance evaluation system and complete member evaluations. Members can also*
>
> *remotely track their progress."* (page 12, lines 9-12 of Teknekron)

> *"In a particular embodiment, the client and server platforms 18 and 20 are each a*
>
> *personal computer connected via the Internet. In this embodiment, the client and server*
>
> *18 and 20 may each operate using MICROSOFT WINDOWS NT."* (page 11, line 31 -
>
> page 12, line 5 of Teknekron)

> *"The privilege tables 84 assign each user a view and a class of services. The view*
>
> *specifies the levels and members of an organizational structure to which the user is*
>
> *allowed access. The class of services specifies services of the performance evaluation*
>
> *system 10 that the user is allowed to perform."* (page 15, lines 21-25 of Teknekron)

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to have combined the teachings of Lacy '109 with the teachings of Teknokron. A

motivation to combine the two references would be because it would have allowed users to take

advantage of the Internet or other network enabling them to remotely access the system (page 12,

lines 9-12 of Teknekron).

Neither of Lacy '109 and Teknekron explicitly disclose (h) sending the assessment report

to one or more locations authorized by the permissions. However, Lacy '570 discloses sending

the assessment report to one or more locations authorized by the permissions.

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> *"Finally, report control selections are retrieved from the user; including whether*
>
> *summary or detailed data is required, and whether the report results are to be provided*
>
> *to a file or to a display screen. This is displayed in Step 1808."* (Col. 13, lines 51-52 of
>
> Lacy '570)

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to have combined the teachings of Lacy '109 and Teknekron with the teachings of

Lacy '570. A motivation to combine the two references would be because it would have allowed

users to customize how report results were to be provided (column 13, lines 51-52 of Lacy '570).

Regarding independent claim 11, See claim mapping in Request pages 30-33,

incorporated by reference. It would have been obvious to one of ordinary skill in the art at the

time the invention was made to have combined the teachings of Lacy '109 and Teknekron with

the teachings of Lacy '570. A motivation to combine the two references would be because it

would have allowed users to customize how report results were to be provided (column 13, lines

51-52 of Lacy '570).

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Issue 2

7)   Claims 1- 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Sonnenfeld.

Regarding independent claim 1, Sonnenfeld discloses a method for managing

distribution of assessment documents over a wide area comprising:

The administration of the test takers and the tests may be performed either locally at the

query server device, or remotely through a network system. (column 12, lines 16-18 of

Sonnenfeld)

In a preferred embodiment, the present system allows for the interactive and secure

development and production of tests over the Internet using a standard web browser.

(column 4, lines 52-54 of Sonnenfeld)

The server is not burdened with continual monitoring of each user, and thus may serve a

large number of test takers simultaneously, without overload. (column 2, lines 41-43 of

Sonnenfeld)

(a) providing an assessment instrument for completion by respondents;

Other uses include giving surveys and any other form of test that is now given on paper.

(column 13, lines 11-15 of Sonnenfeld)

It is therefore an object of the invention to provide a human response testing system..and

a terminal, communication with the host through a communication system, adapted for

interaction with the human to acquire responses, wherein the host transmits information

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> *defining at least one of the sections to the terminal, the terminal presents inquiries to the*
>
> *human...* (column 10, lines 28-41 of Sonnenfeld)

> *The test part, for example, is transmitted as a single logical unit from a server, which*
>
> *assembles each section, as necessary, based on the parameters, and then groups the*
>
> *sections, based on other parameters, as a part. The server then awaits receipt of*
>
> *responses, which are in a form defined by the section parameters, and interprets the*
>
> *responses in accordance with the section parameters, for output.*   (column 2, lines 32-36
>
> of Sonnenfeld)

(b) assigning a password for an entity having a level of rights;

> *The test administrator can create test designer accounts and test taker accounts. Each*
>
> *test designer account can create test taker accounts or use those created by the test*
>
> *administrator:*
>
>> *Test Administrator → Test Taker(s)*
>>
>> *Test Designer → Test Taker(s)*
>
> (column 16, lines 8-13 of Sonnenfeld)

> *A designer logon identifier and password is required.* (column 17, lines 29-30 of
>
> Sonnenfeld)

> *Password • Enter the designer account password in the box to the right. Passwords are*
>
> *case sensitive and may not be left blank.* (column 17, lines 34-36 of Sonnenfeld)

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(c) initializing permissions relative to the password based on the level of rights for the entity,

said permissions including at least one respondent password having permissions based on the

level of rights for a respondent;

> *Records test taker information:*
>
> > *Name*
> >
> > *Logon Identifier*
> >
> > *Password*
>
> (column 7, lines 14-17 of Sonnenfeld)

> *Permissions:*
>
> > *What test taker is allowed to do when they log on to see test results*
> >
> > *View fields above*
> >
> > *Modify fields above*
>
> (column 7, lines 29-32 of Sonnenfeld)

> *Limit who can take your test by password protecting your tests by taker.* (column 9, lines
>
> 17-19 of Sonnenfeld)

> *Password • Enter the current password for security reasons. The password must match*
>
> *that stored in the ITS in order for the test designer to create a new test. This field is case*
>
> *sensitive and required.* (column 20, lines 37-40 of Sonnenfeld).

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In order for them to be allowed to take the test, the test taker account must be manually

assigned to take a particular test. (column 52, lines 54-56 of Sonnenfeld)

Create A New Test Taker Screen

This web page appears after the test designer clicks click the Create New Taker link at

the top of the "Your Personal Test Takers" Screen. This page allows the test designer to

add a new test taker account and set test taker privileges. Test taker accounts are those

accounts in the ITS which allow a person to take a test. (column 50, lines 34-40 of

Sonnenfeld)

Password (Enter Twice). Enter the initial test taker account password in both boxes. This

is necessary to verify that the test designer typed in the password correctly. The test taker

can later change their own password if their account has permission to do so. The

information entered is case-sensitive. (column 51, lines 10-14 of Sonnenfeld)

The second column is a set of check boxes. These check boxes determine what fields a test

taker sees after logging on to their ITS account. If a check box is checked, the test taker

can view the field listed in the first column described above. If the check box is not

checked, the test taker will not be able to see their information after logging on to the ITS

.... These check boxes determine what fields (if any) a test taker can change after logging

onto their ITS account. (column 52, lines 4-22 of Sonnenfeld)

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(d) allowing the entity access to a web site on a global computer network and enabling the

initialized permissions for the entity;

The system is operable over intranets or the Internet using standard Web browsers.

(column 2, lines 61-66 of Sonnenfeld)

The benefits of the present invention are possible using standard server and client

systems, with a custom Web server (or other "test" server) to generate test parts and

receive responses. (column 3, lines 1-4 of Sonnenfeld)

The present invention allows multiple remote users (clients) to interact with a central

query server (host). (column 3, lines 38-40 of Sonnenfeld)

In a preferred embodiment, the present system allows for the interactive and secure

development and production of tests over the Internet using a standard web browser.

(column 4, lines 52-54 of Sonnenfeld)

Permissions:

> *What test taker is allowed to do when they log on to see test results*
>
> *View fields above*
>
> *Modify fields above*

(column 7, lines 29-32 of Sonnenfeld)

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> *Password (Enter Twice). Enter the initial test taker account password in both boxes. This*
>
> *is necessary to verify that the test designer typed in the password correctly. The test taker*
>
> *can later change their own password if their account has permission to do so. The*
>
> *information entered is case-sensitive. These fields are required (however, this doesn't*
>
> *mean that the test designer has to check for passwords when giving a test.., refer to*
>
> *"Assign Test Taker(s) To Take Your Test" Screen for more information).*
>
> *Logon ID. Enter the test taker account logon identifier. It must be unique among all of*
>
> *the test taker accounts. This field is used to uniquely identify a test taker account when*
>
> *they log into the ITS system.* (column 51, lines 10-23 of Sonnenfeld)

> *The ITS system also provides a number of security features, including:*
>
>> *Allowing the test designer to decide who can take your test(s), the number of*
>>
>> *times they can take them and when they can take them.*
>>
>> *Password-protection of tests to disallow them from being viewed by others when*
>>
>> *they are designed.*
>>
>> *Tampering with tests is not allowed (answers may be checked to ensure that they*
>>
>> *aren't changed).*
>
> (column 10, lines 18-27 of Sonnenfeld)

(e) providing an assessment instrument to the respondent which gauges an individual potential

employee's suitability with regards to a particular job, an individual existing employee's

suitability or performance with regards to a particular job, or an individual boss's performance

with regards to a particular job;

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> *...the terminal presents inquiries to the human defined by the section for receipt of*
>
> *responses...* (column 10, lines 35-36 of Sonnenfeld)

> *Test results may be used, for example, to screen job applicants, assign grades to students,*
>
> *and to gain insight about human abilities, strengths and weaknesses.* (column 1, lines
>
> 15-17 of Sonnenfeld).

> *Some systems that can be constructed from these building blocks include educational*
>
> *tests, quizzes, surveys, questionnaires and trivia quizzes.* (column 2, lines 9-11 of
>
> Sonnenfeld)

> *The query need not be of an academic or demographic nature, and therefore the more*
>
> *general aspect of the system seeks to determine a human response to a stimulus.* (column
>
> 4, lines 14-16 of Sonnenfeld)

(f) receiving responses from the respondent to the assessment instrument;

> *The server then awaits receipt of responses, which are in form defined by the section*
>
> *parameters, and interprets the responses in accordance with the section parameters, for*
>
> *output.* (column 2, lines 35-38 of Sonnenfeld)

> *The logical unit is transmitted to a client for presentation and interaction with the user.*
>
> *The client may include enhanced functionality defined by the logical unit, but outside the*
>
> *scope of the transmission. The client obtains information relating to the sections from the*

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user or through interaction with the user, and transmits results or responses back to the

server, for analysis. (column 3, lines 52-58 of Sonnenfeld)

(g) processing the responses into an assessment report;

The output may be subject to further analysis, such as individual and group statistics,

feedback to the test taker, or the like. (column 2, lines 38-40 of Sonnenfeld)

The ITS allows a person to interactively create and give out tests securely on the Internet

using a standard web browser interface. The use of the ITS can be broken into the

following areas of functionality:

   1. Test Design and Development

   2. Test Taking ("Using The Test")

   3. Statistics, Reports and Analysis of Test Results

(column 8, lines 46-52 of Sonnenfeld)

Know who took your test, when they took it, what they got right (or wrong) and how

many times they took it. (column 9, lines 46-47 of Sonnenfeld)

(h) sending the assessment report to one or more locations authorized by the permissions.

The ITS system has various reporting formats, including:

   Automatically generate notes to test takers (students, job applicants,...)

   Generate notes and periodical report cards home to parents

   Give feedback to upper management about how people have done in the past

(column 9, lines 58-64 of Sonnenfeld)

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View Test Results, Take Tests or Change Your Personal Information • Allows the test

designer to view the test results and to take test for which a test taker has been assigned.

A series of pages is presented which allow the test designer to review tests taken

previously, compute grades and averages based on the tests a test taker has taken, take

tests that have been assigned, email the test designer and modify personal account

information. (column 17, lines 17-24 of Sonnenfeld)

Regarding dependent claim 2, Sonnenfeld discloses the method of claim 1 wherein the

permissions associated with a master distributor level of rights include (a) ability to create

response links and passwords,

Test Administrators → Test Taker(s)

Test Designer(s) → Test Taker(s)

(column 5, lines 11-12 of Sonnenfeld)

Allows test database administrator to:

Become ANY test designer and perform ALL functions associated with that test designer

(column 8, lines 28-30 of Sonnenfeld)

When the test designer wants to see what others know about the material or take a poll

or survey about the material, they give a test. The individual elements of each section of

a test are, for example, coded as follows:

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> *1 • Links*
>
> *Links appear as underlined words on the web page and represent hypertext links which,*
>
> *when clicked upon, take the web browser to another web page.*
>
> (column 13, lines 32-41 of Sonnenfeld)

> *According to another object of the present invention, the query server formats a test as*
>
> *an HTML document, which may be, for example, read and responded to through a so-*
>
> *called web browser.* (column 11, lines 46-49 of Sonnenfeld)

> *Create • ...After the test designer have entered the required test information, press the*
>
> *Create button to create a test (a valid designer password is required).* (column 23, lines
>
> 16-19 of Sonnenfeld)

> *Password (Enter Twice). Enter the initial test taker account password in both boxes. This*
>
> *is necessary to verify that the test designer typed in the password correctly. The test taker*
>
> *can later change their own password if their account has permission to do so. The*
>
> *information entered is case-sensitive.* (column 51, lines 10-14 of Sonnenfeld)

(b) ability to set up new accounts,

> *Test take account screens are web pages that appear when creating accounts for people*
>
> *to take a test.* (column 14, lines 31-35 of Sonnenfeld)

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> *The test administrator can create test designer accounts and test taker accounts. Each*
>
> *test designer account can create test taker accounts or use those created by the test*
>
> *administrator:* (column 16, lines 8-11 of Sonnenfeld)

> *Create A New Test Taker Screen*
>
> *This web page appears after the test designer clicks click the Create New Taker link at*
>
> *the top of the "Your Personal Test Takers" Screen. This page allows the test designer to*
>
> *add a new test taker account and set test taker privileges. Test taker accounts are those*
>
> *accounts in the ITS which allow a person to take a test* (column 50, lines 34-44 of
>
> Sonnenfeld)

(c) ability to manage reports,

> *The ITS allows a person to interactively create and give out tests securely on the Internet*
>
> *using a standard web browser interface. The use of the ITS can be broken into the*
>
> *following areas of functionality:*
>
>> *1. Test Design and Development*
>>
>> *2. Test Taking ("Using The Test")*
>>
>> *3. Statistics, Reports and Analysis of Test Results*
>
> (column 8, lines 46-52 of Sonnenfeld)

> *The ITS system has various reporting formats, including:*
>
>> *Automatically generate notes to test takers (students, job applicants,...)*
>>
>> *Generate notes and periodical report cards home to parents*

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> *Give feedback to upper management about how people have done in the past*
>
> (column 9, lines 58-64 of Sonnenfeld)

> *View Test Results, Take Tests Or Change Your Personal Information • Allows the test*
>
> *designer to view the test results and to take tests for which a test taker has been assigned.*
>
> (column 17, lines 17-24 of Sonnenfeld)

(d) ability to change its own and others' account options.

> *Maintain designer accounts:*
>
> > *Create*
> >
> > *Modify*
> >
> > *Delete*
> >
> > *Email designer*
>
> (column 8, lines 32-26 of Sonnenfeld)

> *Modify Your Test Designer Information Screen*
>
> *This web page appears after the test designer clicks the Modify link next to the designer*
>
> *information on the "Designer Information and Tests" screen. This page allows the test*
>
> *designer to change the personal test designer information and password. This screen has*
>
> *the following elements:* (column 19, lines 14-20 of Sonnenfeld)

> *Modify • This button appears above and below the list (scroll) box. When clicked, it*
>
> *presents the "Test Taker Modify" Screen which allows the test designer to view and*

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change the information for a particular test taker account. (column 49, lines 62-65 of

Sonnenfeld)

Regarding dependent claim 3, Sonnenfeld discloses the method of claim 1 wherein the

permissions associated with a distributor level of rights include (a) ability to create response

links and passwords,

> *Test Administrators → Test Taker(s)*
>
> *Test Designer(s) → Test Taker(s)*
>
> (column 5, lines 11-12 of Sonnenfeld)

> *Allows test database administrator to:*
>
> *Become ANY test designer and perform ALL functions associated with that test designer*
>
> (column 8, lines 28-30 of Sonnenfeld)

> *When the test designer wants to see what others know about the material or take a poll*
>
> *or survey about the material, they give a test. The individual elements of each section of*
>
> *a test are, for example, coded as follows:*
>
> *1 • Links*
>
> *Links appear as underlined words on the web page and represent hypertext links which,*
>
> *when clicked upon, take the web browser to another web page.*
>
> (column 13, lines 32-41 of Sonnenfeld)

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> *According to another object of the present invention, the query server formats a test as*
>
> *an HTML document, which may be, for example, read and responded to through a so-*
>
> *called web browser.* (column 11, lines 46-49 of Sonnenfeld)

> *Create • ...After the test designer have entered the required test information, press the*
>
> *Create button to create a test (a valid designer password is required).* (column 23, lines
>
> 16-19 of Sonnenfeld)

> *Password (Enter Twice). Enter the initial test taker account password in both boxes. This*
>
> *is necessary to verify that the test designer typed in the password correctly. The test taker*
>
> *can later change their own password if their account has permission to do so. The*
>
> *information entered is case-sensitive.* (column 51, lines 10-14 of Sonnenfeld)

(b) ability to set up new accounts,

> *Test take account screens are web pages that appear when creating accounts for people*
>
> *to take a test.* (column 14, lines 31-35 of Sonnenfeld)

> *The test administrator can create test designer accounts and test taker accounts. Each*
>
> *test designer account can create test taker accounts or use those created by the test*
>
> *administrator:* (column 16, lines 8-11 of Sonnenfeld)

> *Create A New Test Taker Screen*

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> *This web page appears after the test designer clicks click the Create New Taker link at*
>
> *the top of the "Your Personal Test Takers" Screen. This page allows the test designer to*
>
> *add a new test taker account and set test taker privileges. Test taker accounts are those*
>
> *accounts in the ITS which allow a person to take a test* (column 50, lines 34-44 of
>
> Sonnenfeld)

(c) ability to manage reports,

> *The ITS allows a person to interactively create and give out tests securely on the Internet*
>
> *using a standard web browser interface. The use of the ITS can be broken into the*
>
> *following areas of functionality:*
>
> > *1. Test Design and Development*
> >
> > *2. Test Taking ("Using The Test")*
> >
> > *3. Statistics, Reports and Analysis of Test Results*
>
> (column 8, lines 46-52 of Sonnenfeld)

> *The ITS system has various reporting formats, including:*
>
> > *Automatically generate notes to test takers (students, job applicants,...)*
> >
> > *Generate notes and periodical report cards home to parents*
> >
> > *Give feedback to upper management about how people have done in the past*
>
> (column 9, lines 58-64 of Sonnenfeld)

> *View Test Results, Take Tests Or Change Your Personal Information • Allows the test*
>
> *designer to view the test results and to take tests for which a test taker has been assigned.*

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(column 17, lines 17-24 of Sonnenfeld)

(d) ability to change its own account options.

Maintain designer accounts:

Create

Modify

Delete

Email designer

(column 8, lines 32-26 of Sonnenfeld)

Modify Your Test Designer Information Screen

This web page appears after the test designer clicks the Modify link next to the designer

information on the "Designer Information and Tests" screen. This page allows the test

designer to change the personal test designer information and password. This screen has

the following elements: (column 19, lines 14-20 of Sonnenfeld)

Regarding dependent claim 4, Sonnenfeld discloses the method of claim 1 wherein the

permissions associated with a client level of rights include (a) ability to create response links and

passwords,

Test Administrators → Test Taker(s)

Test Designer(s) → Test Taker(s)

(column 5, lines 11-12 of Sonnenfeld)

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Allows test database administrator to:

Become ANY test designer and perform ALL functions associated with that test designer

(column 8, lines 28-30 of Sonnenfeld)

When the test designer wants to see what others know about the material or take a poll

or survey about the material, they give a test. The individual elements of each section of

a test are, for example, coded as follows:

1 • Links

Links appear as underlined words on the web page and represent hypertext links which,

when clicked upon, take the web browser to another web page.

(column 13, lines 32-41 of Sonnenfeld)

According to another object of the present invention, the query server formats a test as

an HTML document, which may be, for example, read and responded to through a so-

called web browser. (column 11, lines 46-49 of Sonnenfeld)

Create • ...After the test designer have entered the required test information, press the

Create button to create a test (a valid designer password is required). (column 23, lines

16-19 of Sonnenfeld)

Password (Enter Twice). Enter the initial test taker account password in both boxes. This

is necessary to verify that the test designer typed in the password correctly. The test taker

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> *can later change their own password if their account has permission to do so. The*
>
> *information entered is case-sensitive.* (column 51, lines 10-14 of Sonnenfeld)

(b) ability to manage reports,

> *The ITS allows a person to interactively create and give out tests securely on the Internet*
>
> *using a standard web browser interface. The use of the ITS can be broken into the*
>
> *following areas of functionality:*
>
> > *1. Test Design and Development*
> >
> > *2. Test Taking ("Using The Test")*
> >
> > *3. Statistics, Reports and Analysis of Test Results*
>
> (column 8, lines 46-52 of Sonnenfeld)

> *The ITS system has various reporting formats, including:*
>
> > *Automatically generate notes to test takers (students, job applicants,...)*
> >
> > *Generate notes and periodical report cards home to parents*
> >
> > *Give feedback to upper management about how people have done in the past*
>
> (column 9, lines 58-64 of Sonnenfeld)

> *View Test Results, Take Tests Or Change Your Personal Information • Allows the test*
>
> *designer to view the test results and to take tests for which a test taker has been assigned.*
>
> (column 17, lines 17-24 of Sonnenfeld)

(c) ability to change account options.

> *Maintain designer accounts:*

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Create

Modify

Delete

Email designer

(column 8, lines 32-26 of Sonnenfeld)

Modify Your Test Designer Information Screen

This web page appears after the test designer clicks the Modify link next to the designer

information on the "Designer Information and Tests" screen. This page allows the test

designer to change the personal test designer information and password. This screen has

the following elements: (column 19, lines 14-20 of Sonnenfeld)

Regarding dependent claim 5, Sonnenfeld discloses the method of claim 1 wherein the

permissions associated with a respondent level of rights include (a) respond to an assigned

assessment instrument.

This web page appears after the test designer clicks the view button on the "Your

Personal Test Takers" Screen. This page allows the test designer to view a test taker

account's current information. Test takers are the people who are eligible to take any of

the tests that the test designer creates create. The test designer sets set up accounts for

them by using this screen. Once an account has been set up for a test taker, however,

doesn't mean that they can automatically take the test. In order for them to be allowed to

take the test, the test taker account must be manually assigned to take a particular test.

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(column 52, lines 46-56 of Sonnenfeld)

This page allows the test designer to add a new test taker account and set test taker

privileges. Test taker accounts are those accounts in the ITS which allow a person to take

a test. (column 50, lines 34-44 of Sonnenfeld)

Regarding independent claim 6, Sonnenfeld discloses a system for managing

assessments comprising:

(a) a plurality of terminals each adapted to access a wide area network;

It is therefore an object of the invention to provide a human response testing system,

comprising a host...and a terminal communicating with the host through a

communication system... (column 10, lines 28-32 of Sonnenfeld)

It is noted that, while a preferred embodiment of the present invention allows multiple

remote users (clients) to interact with a central query server (host)... (column 3, lines

38-40 of Sonnenfeld)

By employing a standard language such as HTML, the system is operable over intranets

or the Internet using standard Web browsweers such as Microsoft Internet Explorer

(MSIE), e.g., MSIE 3.02, Netscape Navigator, e.g. Navigator 4.01, or the like, on

standard client computing platforms. (column 2, lines 61-66 of Sonnenfeld)

(b) a central server;

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> *It is noted that, while a preferred embodiment of the present invention allows multiple remote users (clients) to interact with a central query server (host).* (column 3, lines 38-40 of Sonnenfeld)

> *The test part, for example, is transmitted as a single logical unit from a server...The server is a transactional based device, servicing each test taker as needed to register, transmit a test part, and receive results.* (column 2, lines 32-45 of Sonnenfeld)

> *The ITS server runs with any standard ODBC compliant database and any standard web server that runs on the Windows.TM. Operating System. Once the ITS server is running, however, all that is needed to design and develop tests is any web browser running on any platform.* (column 12, lines 60-65 of Sonnenfeld)

(c) software associated with the central server which administers a web site and which provides permissions;

> *A preferred embodiment of the present invention provides a computer software system, called the "Interactive Testing And Questionnaire System" (ITS), which allows for the interactive and secure development and production of tests over the Internet using a standard web browser. The ITS server runs with any standard ODBC compliant database and any standard web server that runs on the Windows.TM. Operating System. Once the ITS server is running, however, all that is needed to design and develop tests is any web browser running on any platform.* (column 12, lines 56-65 of Sonnenfeld)

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> *Permissions:*
>
>> *What test taker is allowed to do when the log on to see test results*
>>
>> *View fields above*
>>
>> *Modify fields above*
>
> (column 7, lines 29-33 of Sonnenfeld)

(d) a password having a set of permissions correlated to a respondent for an assessment survey

which gauges an individual potential employee's suitability with regards to a particular job, an

individual existing employee's suitability or performance, with regards to a particular job, or an

individual boss's performance with regards to a particular job;

> *Records test taker information:*
>
>> *Name*
>>
>> *Logon*
>>
>> *Identifier*
>>
>> *Password*
>
> (column 7, lines 14-17 of Sonnenfeld)

> *Permissions:*
>
>> *What test taker is allowed to do when the log on to see test results*
>>
>> *View fields above*
>>
>> *Modify fields above*
>
> (column 7, lines 29-33 of Sonnenfeld)

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> *Create A New Test Taker Screen*
>
> *This web page appears after the test designer clicks click the Create New Taker link at*
>
> *the top of the "Your Personal Test Takers" Screen. This page allows the test designer to*
>
> *add a new test taker account and set test taker privileges.* (column 50, lines 34-44 of
>
> Sonnenfeld)

> *Password (Enter Twice). Enter the initial test taker account password in both boxes. This*
>
> *is necessary to verify that the test designer typed in the password correctly. The test taker*
>
> *can later change their own password if their account has permission to do so. The*
>
> *information entered is case-sensitive.* (column 51, lines 10-14 of Sonnenfeld)

> *The ITS system has various reporting formats, including: Automatically generate notes to*
>
> *test takers (students, job applicants,...)* (column 9, lines 58-60 of Sonnenfeld)

(e) a password having a set of permissions correlated to an entity interested in the respondent's

responses to the assessment survey specifics.

> *View Test Results, Take Tests Or Change Your Personal Information • Allows the test*
>
> *designer to view the test results ...* (column 17, lines 17-24 of Sonnenfeld)

> *Designer ID • Enter the designer account identifier in the box to the right. Identifiers are*
>
> *not case sensitive. Password • Enter the designer account password in the box to the*
>
> *right. Passwords are case sensitive and may not be left blank.* (column 17, lines 32-36 of
>
> Sonnenfeld)

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Regarding dependent claim 7, Sonnenfeld discloses the system of claim 6 wherein the assessment relates to job or personal performance of a human.

> *Tests of human knowledge, understanding and preferences are well known. In educational environments, they are typically used as indicators for measuring human performance and our knowledge. Test results may be used, for example, to screen job applicants, assign grades to students and to gain insight about human abilities, strengths and weaknesses.* (column 1, lines 12-18 of Sonnenfeld)

> *The query need not be of an academic or demographic nature, and therefore the more general aspect of the system seeks to determine a human response to a stimulus.* (column 4, lines 14-36 of Sonnenfeld)

Regarding dependent claim 8, Sonnenfeld discloses the system of claim 6 wherein the assessment survey is electronic in nature or is hard copy in nature.

> *The present invention relates to the field of electronic testing, and more particularly to a method and system for designing, administering and taking tests through a computer network or other information distribution media.* (column 12, lines 6-9 of Sonnenfeld)

> *...the terminal presents inquiries to the human defined by the section for receipt of responses...* (column 10, lines 35-36 of Sonnenfeld)

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In a preferred embodiment, the present system allows for the interactive and secure

development and production of tests over the Internet using a standard web browser.

(column 4, lines 52-54 of Sonnenfeld)

Regarding dependent claim 9, Sonnenfeld discloses the system of claim 6 wherein the

report is electronic in nature or is hard copy in nature.

The ITS allows a person to interactively create and give out tests securely on the Internet

using a standard web browser interface. The use of the ITS can be broken into the

following areas of functionality:

    1. Test Design and Development

    2. Test Taking ("Using The Test")

    3. Statistics, Reports and Analysis of Test Results

(column 8, lines 46-52 of Sonnenfeld)

The ITS system has various reporting formats, including:

    Automatically generate notes to test takers (students, job applicants,...)

    Generate notes and periodical report cards home to parents

    Give feedback to upper management about how people have done in the past

(column 9, lines 58-64 of Sonnenfeld)

Regarding dependent claim 10, Sonnenfeld discloses the system of claim 6 wherein the

set of permissions can vary from password to password.

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> *The operation of the system is defined herein functionally by way of its inputs and*
>
> *outputs. These inputs are presented as "screens", which are, in the preferred*
>
> *embodiment, HTML 3.0 coded web pages. The system presents a number of different*
>
> *types of pages or screens to users, depending on their privilege level within the system*
>
> *and the task being performed.* (column 12, lines 48-55 of Sonnenfeld)

Regarding independent claim 11, Sonnenfeld discloses a method of evaluation or

assessment of persons, jobs, or employees comprising:

(a) assigning a password for a respondent;

> *Records test taker information:*
>
>> *Name*
>>
>> *Logon*
>>
>> *Identifier*
>>
>> *Password*

(column 7, lines 14-17 of Sonnenfeld)

(b) initializing a set of permissions relative to the password;

> *Permissions:*
>
>> *What test taker is allowed to do when they log on to see test results*
>>
>> *View fields above*
>>
>> *Modify fields above*

(column 7, lines 29-33 of Sonnenfeld)

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> *This web page appears after the test designer clicks the view button on the "Your*
>
> *Personal Test Takers" Screen. This page allows the test designer to view a test taker*
>
> *account's current information. Test takers are the people who are eligible to take any of*
>
> *the tests that the test designer creates create. The test designer sets set up accounts for*
>
> *them by using this screen. Once an account has been set up for a test taker, however,*
>
> *doesn't mean that they can automatically take the test. In order for them to be allowed to*
>
> *take the test, the test taker account must be manually assigned to take a particular test.*
>
> (column 52, lines 46-56 of Sonnenfeld)

> *Password (Enter Twice) . Enter the initial test taker account password in both boxes.*
>
> *This is necessary to verify that the test designer typed in the password correctly. The test*
>
> *taker can later change their own password if their account has permission to do so. The*
>
> *information entered is case-sensitive.* (column 51, lines 10-14 of Sonnenfeld)

> *The second column is a set of check boxes. These check boxes determine what fields a test*
>
> *taker sees after logging on to their ITS account. If a check box is checked, the test taker*
>
> *can view the field listed in the first column described above. If the check box is not*
>
> *checked, the test taker will not be able to see their information after logging on to the ITS*
>
> *.... These check boxes determine what fields (if any) a test taker can change after logging*
>
> *onto their ITS account.* (column 52, lines 4-22 of Sonnenfeld)

(c) providing an assessment instrument which gauges an individual potential employee's

suitability with regards to a particular job, an individual existing employee's suitability or

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performance with regards to a particular job, or an individual boss's performance with regards to

a particular job to a respondent after verification of password;

> *...the terminal presents inquiries to the human defined by the section for receipt of*
>
> *responses...* (column 10, lines 35-36 of Sonnenfeld)

> *Test results may be used, for example, to screen job applicants, assign grades to students,*
>
> *and to gain insight about human abilities, strengths and weaknesses.* (column 1, lines
>
> 15-17 of Sonnenfeld).

> *Some systems that can be constructed from these building blocks include educational*
>
> *tests, quizzes, surveys, questionnaires and trivia quizzes.* (column 2, lines 9-11 of
>
> Sonnenfeld)

> *The query need not be of an academic or demographic nature, and therefore the more*
>
> *general aspect of the system seeks to determine a human response to a stimulus.* (column
>
> 4, lines 14-16 of Sonnenfeld)

(d) receiving responses from the respondent to the assessment instrument;

> *The server then awaits receipt of responses, which are in form defined by the section*
>
> *parameters, and interprets the responses in accordance with the section parameters, for*
>
> *output.* (column 2, lines 35-38 of Sonnenfeld)

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> *The logical unit is transmitted to a client for presentation and interaction with the user.*
>
> *The client may include enhanced functionality defined by the logical unit, but outside the*
>
> *scope of the transmission. The client obtains information relating to the sections from the*
>
> *user or through interaction with the user, and transmits results or responses back to the*
>
> *server, for analysis.* (column 3, lines 52-58 of Sonnenfeld)

(e) processing the responses into an assessment report;

> *The output may be subject to further analysis, such as individual and group statistics,*
>
> *feedback to the test taker, or the like.* (column 2, lines 38-40 of Sonnenfeld)

> *The ITS allows a person to interactively create and give out tests securely on the Internet*
>
> *using a standard web browser interface. The use of the ITS can be broken into the*
>
> *following areas of functionality:*
>
>> *1. Test Design and Development*
>>
>> *2. Test Taking ("Using The Test")*
>>
>> *3. Statistics, Reports and Analysis of Test Results*
>
> (column 8, lines 46-52 of Sonnenfeld)

> *Know who took your test, when they took it, what they got right (or wrong) and how*
>
> *many times they took it.* (column 9, lines 46-47 of Sonnenfeld)

(f) sending the assessment report to one or more locations authorized by the set of permissions

associated with the password.

> *The ITS system has various reporting formats, including:*

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> *Automatically generate notes to test takers (students, job applicants,...)*
>
> *Generate notes and periodical report cards home to parents*
>
> *Give feedback to upper management about how people have done in the past*

(column 9, lines 58-64 of Sonnenfeld)

> *View Test Results, Take Tests or Change Your Personal Information • Allows the test*
>
> *designer to view the test results and to take test for which a test taker has been assigned.*
>
> *A series of pages is presented which allow the test designer to review tests taken*
>
> *previously, compute grades and averages based on the tests a test taker has taken, take*
>
> *tests that have been assigned, email the test designer and modify personal account*
>
> *information.* (column 17, lines 17-24 of Sonnenfeld)

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Conclusion

All correspondence relating to this ex parte reexamination proceeding should be directed

as follows:

By U.S. Postal Service Mail to:

      Mail Stop Ex Parte Reexam
      ATTN: Central Reexamination Unit
      Commissioner for Patents
      P.O. Box 1450
      Alexandria, VA 22313-1450

By FAX to:

      (571) 273-9900
      Central Reexamination Unit

By hand to:

      Customer Service Window
      Randolph Building
      401 Dulany St.
      Alexandria, VA 22314

By EFS-Web:

      Registered users of EFS-Web may alternatively submit such correspondence via the
electronic filing system EFS-Web, at

      https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

      EFS-Web offers the benefit of quick submission to the particular area of the Office that
needs to act on the correspondence. Also, EFS-Web submissions are "soft scanned" (i.e.,
electronically uploaded) directly into the official file for the reexamination proceeding, which
offers parties the opportunity to review the content of their submissions after the "soft scanning"
process is complete.

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      Any inquiry concerning this communication or earlier communications from the

Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be

directed to the Central Reexamination Unit at telephone number (571) 272-7705.

/Joshua D Campbell/
Primary Examiner, Art Unit 3992

ALB